



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Proposed Buy America Waivers

[Docket No. FTA-2012-0006]

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: The purpose of this notice is to solicit comment a request from Allison Transmission, Inc. to renew a waiver for its hybrid electric propulsion system, Energy Storage Unit subsystem H 49.40 EPSsystem, until December 31, 2013 so they may complete their ongoing process to secure a domestic supplier of Lithium Ion batteries. FTA seeks public comment before deciding whether to grant Allison's request.

DATES: Comments must be received by [insert date seven days after publication of notice.] Late filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by only one of the following means, identifying your submissions by docket number FTA-2012-0006. All electronic submissions must be made to the U.S. Government electronic site at www.regulations.gov. Commenters should follow the instructions below for mailed and hand delivered comments.

- (1) *Web site:* www.regulations.gov. Follow the instructions for submitting comments on the U.S. Government electronic docket site;
- (2) *Fax:* (202) 493-2251;

(3) *Mail*: U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Docket Operations, M-30, Room W12-140, Washington, DC, 20590-0001.

(4) *Hand Delivery*: Room W12-140 on the first floor of the West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays/

Instructions: All submissions must make reference to the “Federal Transit Administration” and include docket number FTA-2012-0006. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to www.regulations.gov. For More information, you may review DOT’s complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 Fed. Reg. 19477), or visit www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Jayme L. Blakesley at (202) 366-0304 or jayme.blakesley@dot.gov.

SUPPLEMENTARY INFORMATION:

The purpose of this notice is to seek public comment on whether the Federal Transit Administration (FTA) should waive its Buy America requirements of 49 U.S.C. 5323(j), as implemented at 49 CFR Part 661, until December 31, 2013, for an Energy Storage Unit (ESU) manufactured by Allison Transmission, Inc. (Allison). The purpose of the waiver is to allow

Allison until December 2013 to complete its ongoing process to secure and qualify a domestic supplier of Lithium Ion batteries.

The ESU is one of five subsystems of Allison's hybrid-electric propulsion system known as the H 40/50 EP System. The ESU supplies and stores energy for the H 40/50 EP System during normal motor-generator operation and during regenerative braking. The ESU is a packaged subsystem comprised of proprietary batteries, a battery management system, thermal management equipment and containment. It is manufactured to Allison's specifications and is functionally critical and specific to the H 40/50 EP System. The company currently procures the ESU completely assembled from a supplier that cannot comply with FTA's Buy America requirements.

With few exceptions, FTA's Buy America rules require that all steel, iron and manufactured goods used in FTA-funded projects be produced in the United States. One exception to Buy America is non-availability—that in some instances certain steel, iron, and manufactured goods are not produced in the United States in sufficient and reasonably available quantities or are not of a satisfactory quality. When this is the case, FTA may waive its Buy America requirements and allow the use of foreign-produced goods in an FTA-funded project.

On April 3, 2009, FTA granted a limited non-availability waiver to Allison. The waiver allowed Allison to produce its ESU outside the United States. While the waiver was in effect, FTA instructed Allison to identify and qualify a domestic manufacturer capable of producing ESUs for Allison's H 40/50 EP System. The waiver expired and, despite its best efforts, Allison has not identified and qualified a U.S. manufacturer.

Allison asked FTA to renew and extend the waiver until December 31, 2013, to allow it to complete the qualification process. According to Allison, since the issuance of the 2009 waiver, Allison has utilized competitive assessments, technical reviews, and independent market studies with U.S. based Lithium Ion suppliers. The company compared its current Nickel Metal Hydride (NiMH) batteries with Lithium Ion and determined Lithium Ion was appropriate for transit bus applications. In addition, Allison is changing from NiMH to Lithium Ion because no NiMH supplier is producing within the U.S. to meet Allison's requirements (design, reliability, quality, pricing, etc). Most domestic suppliers who expressed interest in starting production of the ESU subsystem quoted Lithium Ion technologies. Five companies have started or are starting cell production in the United States. Five additional companies are starting pack production in the United States.

After contacting and surveying a number of potential suppliers, Allison has chosen a domestic supplier. The selection and approval of this supplier and its product is subject to the guidelines and requirements of Allison's structured product development and approval process known as the Process of Concurrent Engineering (POCE). This process applies to all products developed, manufactured and sold by Allison, including components and/or subcomponents that are purchased by Allison and provided as part of Allison's system or product that are delivered to its customers. The POCE process consists of four activity areas of focus with each having durations of approximately three months to one year. Allison is currently in the Concept Validation (CV) phase, evaluating/validating the possibility of utilizing a current U.S. hybrid ESS supplier who is working with Allison through an ARRA grant awarded in fiscal year 2009 (DOE Grant DE-EE00002025). Beyond the CV phase, additional joint work has been planned

for Design Validation, OEM vehicle testing, and Production Validation phases that are needed to assure an appropriate Start of Production launch.

FTA proposes to grant Allison a waiver through December 31, 2013. Unlike other requests for non-availability waivers, the granting of which would enable otherwise non-compliant materials to be utilized until a U.S. producer comes forward, this waiver would allow Allison to maintain its position in the market while continuing the process of securing a domestic manufacturer for its ESU subsystems. Without a waiver extension, Allison faces a potential loss of volume, market share, and revenue, and a potential loss of U.S. Jobs. In addition, Allison's bus manufacturing customers would be limited in their ability to offer buses utilizing hybrid propulsion technology, without furthering the goals of Buy America.

Before deciding whether to grant Allison's request, FTA seeks comment from all interested parties. In the interest of transparency, FTA has published copies of Allison's request to the docket. Interested parties may access these materials by visiting the docket comments by [insert date seven days after publication of notice]. Late-filed comments will be considered to the extent practicable.

Issued this _16th_ day of March, 2012.

Dorval R. Carter, Jr.

Chief Counsel

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